

SEC. _____. DISTRIBUTION OF REMAINING BALANCES IN FLEXIBLE SPENDING ARRANGEMENTS UPON TERMINATION FROM EMPLOYMENT.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

“(i) DISTRIBUTION OF REMAINING BALANCES IN FLEXIBLE SPENDING ARRANGEMENTS UPON TERMINATION FROM EMPLOYMENT.—

“(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a health flexible spending arrangement or a dependent care flexible spending arrangement solely because under the plan or arrangement a participant is permitted access to any unused balance in the participant’s accounts under such plan or arrangement in the manner provided under paragraph (2).

“(2) DISTRIBUTION UPON TERMINATION.—

“(A) IN GENERAL.—A plan or arrangement shall permit a participant (or any designated heir of the participant) to receive a cash payment equal to the aggregate unused account balances in the plan or arrangement as of the date the individual is separated (including by death or disability) from employment with the employer maintaining the plan or arrangement.

“(B) INCLUSION IN INCOME.—Any payment under subparagraph (A) shall be includible in gross income for the taxable year in which such payment is distributed to the employee.

“(3) TERMS RELATING TO FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of this section—

“(A) FLEXIBLE SPENDING ARRANGEMENTS.—A flexible spending arrangement is a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions).

“(B) HEALTH AND DEPENDENT CARE ARRANGEMENTS.—The terms ‘health flexible spending arrangement’ and ‘dependent care flexible spending arrangement’ means any flexible spending arrangement (or portion thereof) which provides payments for expenses incurred for medical care (as defined in section 213(d)) or dependent care (within the meaning of section 129), respectively.”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 125 of the Internal Revenue Code of 1986 is amended by inserting “AND FLEXIBLE SPENDING ARRANGEMENTS” after “PLANS”.

(2) The item relating to section 125 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting “and flexible spending arrangements” after “plans”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 2833. Mr. JOHANNIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 14 and 15, insert the following:

SEC. 2008. NONAPPLICATION OF ANY MEDICAID ELIGIBILITY EXPANSION UNTIL ENROLLMENT OF AT LEAST 90 PERCENT OF CURRENTLY ELIGIBLE INDIVIDUALS.

Notwithstanding any other provision of this Act, with respect to a State, any provision of this Act or an amendment made by this Act that imposes a federally-mandated expansion of eligibility for Medicaid shall not apply to the State before the date on which the State Medicaid Director certifies to the Secretary of Health and Human Services that at least 90 percent of the individuals eligible for medical assistance under the State’s Medicaid plan, including under any waiver of such plan, are enrolled in the plan or waiver.

SA 2834. Mr. JOHANNIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 340, between lines 21 and 22, insert the following:

(e) EXPEDITED JUDICIAL REVIEW.—If any action is brought to challenge the constitutionality of section 5000A of the Internal Revenue Code of 1986, as added by subsection (b), the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

SA 2835. Mr. JOHANNIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, between lines 8 and 9, insert the following:

“(vii) The proposal shall not include any recommendation that would reduce payment rates for items and services furnished by a critical access hospital (as defined in section 1861(mm)(1)).

SA 2836. Ms. MURKOWSKI (for herself, Mrs. HUTCHISON, and Mr. JOHANNIS) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr.

BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, strike lines 11 through 14.

On page 17, line 15, strike “(2)” and insert “(1).”

On page 17, line 20, strike “(3)” and insert “(2).”

On page 17, between lines 24 and 25, insert the following:

“Notwithstanding any other provision of law, the Secretary shall not use any recommendation made by the United States Preventive Services Task Force to deny coverage of an item or service by a group health plan or health insurance issuer offering group or individual health insurance coverage or under a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C.1320a-7b(f))) or private insurance.

“(b) DETERMINATIONS OF BENEFITS COVERAGE.—A group health plan and a health insurance issuer offering group or individual health insurance coverage shall, in determining which preventive items and services to provide coverage for under the plan or coverage, consult the medical guidelines and recommendations of relevant professional medical organizations of relevant medical practice areas (such as the American Society of Clinical Oncology, the American College of Surgeons, the American College of Radiation Oncology, the American College of Obstetricians and Gynecologists, and other similar organizations), including guidelines and recommendations relating to the coverage of women’s preventive services (such as mammograms and cervical cancer screenings). The plan or issuer shall disclose such guidelines and recommendations to enrollees as part of the summary of benefits and coverage explanation provided under section 2715.”.

On page 17, line 25, strike “(b)” and insert “(c).”

On page 18, lines 3 and 4, strike “or (a)(2).”

On page 18, line 4, strike “(a)(3)” and insert “(a)(2).”

On page 18, line 11, strike “(c)” and insert “(d).”

On page 124, between lines 22 and 23, insert the following:

(d) RULE OF CONSTRUCTION WITH RESPECT TO PREVENTIVE SERVICES.—Nothing in this Act (or an amendment made by this Act) shall be construed to authorize the Secretary, or any other governmental or quasi-governmental entity, to define or classify abortion or abortion services as “preventive care” or as a “preventive service”.

On page 1680, strike lines 10 through 12, and insert the following:

“(A) to permit the Secretary to use data obtained from the conduct of comparative effectiveness research, including such research that is conducted or supported using funds appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), to deny coverage of an item or service under a Federal health care program (as defined in section 1128B(f)) or private insurance; or”.

SA 2837. Mr. SANDERS (for himself, Mr. BURRIS, and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue